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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/472,972	12/28/1999	YOJI KAMEO	0445-0275P	9431

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09/30/2003

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EXAMINER

KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 09/30/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/472,972

Applicant(s)

KAMEO ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 4-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1 – 2 and 4 – 20 have been considered but are moot in view of the new ground(s) of rejection.

Specification

The amendment filed June 30, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the applicant has amended the claims to recite that after 1 minute of dropping 1 g of a physiological solution of sodium chloride onto a liquid-retentive wing portion absorbent core, the solution disperses to an area of the wing portion absorbent core measuring no larger than 80 cm².

There is no support for this limitation in the originally filed disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 3761

Claims 1 – 2, 4 – 5, 10 – 13 and 17 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

With respect to claims 1 and 17, the applicant has amended the claims to recite that after 1 minute of dropping 1 g of a physiological solution of sodium chloride onto a liquid-retentive wing portion absorbent core, the solution disperses to an area of the wing portion absorbent core measuring no larger than 80 cm².

The specification does not enable one of ordinary skill in the art to make and/or use the invention as claimed. Further, it is unclear what the applicant intends to claim as an invention. Therefore, clarification and/or correction are required.

Claim 10 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a sanitary napkin with either an elongate absorbent body and either an upper portion or a lower portion, does not reasonably provide enablement for an elongate absorbent body, an upper portion comprised of a body absorbent core and a lower layer portion. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims. The applicant essentially claims three components that have not been supported by the originally filed disclosure. It is unclear what the applicant intends to claim as an invention. Therefore, clarification and/or correction are required.

Art Unit: 3761

Claims 10 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 10, the applicant recites that the sanitary napkin comprises an elongate upper layer portion comprised of a body absorbent core. Does the sanitary napkin have an absorbent body, an upper layer portion comprised of a body absorbent core and a lower layer portion?

With reference to claim 14, the applicant claims "said at least two other sheet materials" in line 2. It is unclear what the applicant intends to claim as an invention since the recitation of at least two other sheet materials is no longer applicable based on the applicant's current amendment of claim 6.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 – 8, 14 – 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Mavinkurve (US 5,275,591).

With respect to claim 6, Mavinkurve discloses a sanitary napkin comprising an elongate absorbent body and a pair of left and right wing portions disposed at longitudinal opposite left and right sides of the absorbent body (figure 1), wherein each

Art Unit: 3761

of the wing portions is formed by laminating an absorptive sheet (31) to at least one other sheet (35), said absorptive sheet and said at least one other sheet being provided under the elongate absorbent body and extending outwardly on the right and left sides thereof (col. 5, lines 62 – 66), said absorptive sheet and said at least one other sheet being bonded to each other with an adhesive agent over substantially an entirety thereof except for non-coated areas of a predetermined width formed on said wing portions along opposite side edges of the absorbent body (42) as set forth in col. 6, lines 44 – 54 and in figure 4.

Regarding claim 7, Mavinkurve discloses a sanitary napkin wherein the at least one other sheet is an antileakage sheet (35) and the absorptive sheet is placed on the antileakage sheet as set forth in col. 5, lines 61 – 66.

As to claim 8, Mavinkurve discloses a sanitary napkin wherein the absorptive sheet is providing on an upper surface side thereof with a liquid-permeable sheet (38) in such a manner as to cover the absorptive sheet as set forth in figure 4.

Regarding claim 14, Mavinkurve discloses a sanitary napkin wherein the at least two sheet materials extend substantially an entire width of the sanitary napkin in partial overlapping relationship with the elongate absorbent body as set forth in figure 4.

As to claim 15, Mavinkurve discloses a sanitary napkin comprising an elongate absorbent body and a pair of left and right rear wing portions disposed at longitudinal opposite left and right sides of the absorbent body in a rear zone thereof, wherein each of the rear wing portions includes a liquid-retentive wing portion absorbent core (31) extending substantially an entire width of the sanitary napkin in partial overlapping

Art Unit: 3761

relationship with the elongate absorbent body as set forth in col. 5, lines 62 – 66 and col. 6, lines 44 – 49.

With reference to claim 16, Mavinkurve discloses a sanitary napkin wherein the absorbent body includes a liquid retentive body absorbent core (34), and wherein the body absorbent core and the wing portion absorbent core (30 or 31) are isolated from each other through an isolating member (10) as set forth in figure 3.

With reference to claim 20, Mavinkurve discloses a sanitary napkin wherein each of the wing portions include a liquid-permeable topsheet (38) and a liquid-impermeable backsheet (35) with a liquid-retentive wing portion absorbent core (30 or 31) located therebetween as set forth in figure 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mavinkurve (US 5,275,591).

The difference between Mavinkurve and claim 9 is the provision that the wing portion comprises a pair of left and right front wing portions and a pair of left and right rear wing portions.

Art Unit: 3761

It would have been obvious to one of ordinary skill in the art to provide an additional pair of left and right wing portions since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

With respect to claim 19, the examiner contends that any material will have a buckling strength, including the absorbent tissues (30) comprising the flaps of Mavinkurve.

It would have been obvious to one of ordinary skill in the art to modify the buckling strength of the absorbent tissue of Mavinkurve in order to determine the most effective product since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mavinkurve, and further in view of Fung et al. (US 5,423,786).

The difference between Mavinkurve and claim 18 is the provision that the wing portion absorbent core is comprised of embossed absorptive paper.

Fung et al. (hereinafter "Fung") teaches an absorbent article wherein the wing portion is comprised of an embossed absorptive paper as set forth in col. 4, lines 27 – 29 and in figures 5a, 6a and 7a.

It would have been obvious to one of ordinary skill in the art to modify the absorptive paper of Mavinkurve with embossing because embossing enhances fluid distribution, comfort and/or aesthetics as taught by Fung in col. 4, lines 27 – 29.

Art Unit: 3761

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Art Unit: 3761

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


Michele Kidwell
September 22, 2003


WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700